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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,601	04/23/2001	James J. Fitzgibbon	70605	5590

22242 7590 09/17/2002

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

EXAMINER

RO, BENTSU

ART UNIT	PAPER NUMBER
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2837

DATE MAILED: 09/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/840,601

Applicant(s)

FITZGIBBON ET AL.

Examiner

Bentsu Ro

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-20,31 and 32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-20 is/are allowed.
- 6) ☒ Claim(s) 31 and 32 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

FIRST OFFICE ACTION

1. The sentence inserted before the first line of the specification includes a prior application number 09/535,221, filed March 27, 2000. This prior application is now US Patent No. 6,278,249. The sentence also includes a divisional application 09/161,840, filed September 28, 1998. This divisional application is now US Patent No. 6,172,475.

Update both prior applications is required.

2. This application contains 97 pages of computer program listings appendix. Any computer program listings having 300 lines or over must be submitted on a compact disc in compliance with 37 CAR §1.52(e). A compact disc containing such a computer program listing is to be referred to as a "computer program listing appendix". The computer program listing appendix will not be part of the printed patent.

Applicant must amend the specification to include a reference to the computer program listing appendix at the location indicated in 37 CAR §1.77(b)(4).

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 31 and 32 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by **Cook US Patent No. 3,783,556.**

The following chart compares the claims with Cook's teaching.

The claims:

31. A movable barrier operator comprising:

a motor connectable to a movable barrier and energizable to move the barrier between an open position and a closed position with respect to a barrier opening;

Cook's teaching:

see title;

Fig. 1 shows a motor 18 for open/close a vertical garage door 12;

a position detector for sensing a position of the barrier;

a controller

responsive to input commands and the position detector for controlling the energizing of the motor to control the movement of the barrier;

apparatus for defining a minimum reversal position of the barrier at a position near a closed limit of the barrier; and

the controller responds to a close input command

Fig. 2A shows an open limit switch 60 and a close limit switch 62;

the Figs. 2A-2B circuit;

the input commands are generated by the closing of treadle switch 36 (Fig. 2B), the closing of manual door close switch 248 (Fig. 2B), or the closing of manual door open switch 250 (Fig. 2A); the operation of the above-mentioned switches closes a circuit, which circuit includes one or both of the limit switches 60, 62, therefore, the limit switches (the position detector) are also involved in the controller's operation, see column 6, lines 5-8 for example;

the position of the photocell 30 and the light source 32 defines a minimum reversal position, see Fig. 1; if the light beam from the photocell 30 is interrupted, the garage door will reverse; it is noted that the photocell is installed at the very bottom of the garage door frame, thus, it defines a minimum reversal position; if the front edge of the garage door passes beyond the photocell's position, the garage door will not reverse because the interruption of the light beam becomes impossible by the blockage of the garage door;

the close input command is provided by the closing of the manual door close switch 248 (Fig. 2B);

by energizing the motor to move the barrier to a position more closed than the minimum reversal position

to force the barrier against a substantially fixed part of the barrier opening.

without interruption of the light beam, the motor continues to move the garage door further down beyond the position of the photocell 30 and the light source 32;

the motor continues to move the garage door to force the garage door to touch the ground and simultaneously the limit switch 62 is opened by the garage door; this is conventional type of garage door operation, in that, the close limit switch 62 is installed at a position to be opened only when the door is fully closed; a skilled person in the art will never install the limit switch 62 at a position where the door is not fully closed; thus, if the garage door is fully closed, the motor obviously "forces the barrier against a substantially fixed part of the barrier opening" as claimed.

32. A movable barrier operator according to claim 31 wherein the barrier is a movable garage door and the substantially fixed part of the barrier opening comprises a garage floor.

Same above.

5. Claims 16--20 are allowable. These claims are allowable because no prior art teach a learn routine for determining a minimum reversal position of the barrier relative to a close limit.

6. Any inquiry concerning this communication should be directed to Bentsu Ro at telephone number 703 308-3656.

September 12, 2002

Bentsu Ro
BENTSU RO
PRIMARY EXAMINER